

#### IV. EXAMINATION MATERIALS AND PROCEDURES

This chapter describes how facts, data, and issues obtained through the examination process will be retained and properly stored in the computer. Various techniques for contacting claimants to discuss issues and obtain data are discussed.

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## A. PULLING CLAIMS FOR REVIEW

The method of pulling claims for examination is up to each regional office. However, use the following criteria in deciding methodology: (1) all claims belonging to one ownership should be handled by only one examiner; (2) a claimant should be contacted by only one examiner, and as few times as possible; and (3) office personnel should not have to wait for the use of data sources.

The following is a suggested method for pulling claims which will allow for efficient use of aerial photographs and other data sources. In addition owner names and addresses, source names, points of diversion, and places of use will be easier to recognize, as well as supplemental rights and multiple use of the same right, as the reviewer becomes familiar with the local area.

- Divide the basin among the staff:
  - (1) by watershed or drainage, or
  - (2) geographically, halves, thirds, etc. For instance, one starts at the south end of a basin and proceeds north; while another starts in the middle and proceeds north.
- Review all claims of one ownership as a group. Use the POU or source index along with the owner index to pull claims.

In addition to the suggested methods for pulling claims, there are other factors which could alter the manner in which claims are pulled for review.

- State and federal agency claims should be reviewed at the beginning of basin examination since responses from them, due to their structure, may take considerable time.
- Examination of complex claims (e.g. irrigation districts, power generation, etc.) may be more extensive and time consuming. Such claims usually represent the larger and more complex uses in a basin. Again, these types of claims should be reviewed at the beginning of basin examination.
- At the beginning of basin examination, an index of all reservoirs greater than 15 AF will be sent to the regional office. Send State Lands a copy of the index listing their claims; mailing labels (generated with index); and, for each claim involved, a questionnaire, and a copy of the map submitted with the claim. Also, a copy of the claim attached to the questionnaire might be useful. State Lands will forward the questionnaires to the lessees with a cover letter requesting them to return the completed questionnaire to the regional office. State

Lands will provide a list to the regional office of the lessee's name, address and telephone number for each water right involved so any additional follow-up or questions can be directed to the lessee.

- Review of "Other Uses" claims should be timed to coincide with the summer field season in case field investigations are required.

Either as claims are pulled or after they are examined, record the progress by highlighting the claim numbers in the numerical index. This serves as a check that a basin has been totally examined. Depending upon individual regional office methods, other indexes may also be marked.

Once the claims have been pulled, gather the data sources (aerial photographs, topographic maps, etc.) necessary to examine the claims.

## B. DNRC EXAMINATION WORKSHEET

The examination worksheet is an abstract of the clarified claimed information and a checklist of items to be examined. It will be used to evaluate the elements of a claim and documents the reviewer's analysis. An example of the worksheet is shown as Figure IV-1.

Examination worksheets will be supplied by the records section in Helena. There must be one worksheet for each claim in a basin. As updates (transfers, changes, etc.) are made to the claim, new worksheets will be sent for the claim file. All worksheets showing work by the reviewer or updates to the data base will be retained in the claim file.

1. Worksheet Format. Each element on the worksheet has two separate sections.

a. Claimed Information. The boldfaced, uppercase type is the clarified claim information as entered into the department's computer data base. Changes, corrections, or amendments of this data may only be made as authorized by the Supreme Court Claims Examination Rules and as directed by this manual.

b. Examination Section. The lowercase type under each element is the examination section to be used by the reviewer for that element. The examination section serves several functions: first, as a reminder to examine each element of the claim; second, to cite the authority for changes; third, as a record of remarks added during the examination; and fourth, for comments on each element. Comments will not appear in the decree or examination report, only coded remarks will.

2. Changing Claimed Information. Changes, corrections, and amendments are made on the worksheet by drawing a line through the item to be changed and writing the new information above or next to the changed item. All changes should be legible, printed, and in ink. The color of ink used should be one that contrasts well with the worksheet, such as red, green or purple. **Never** "white out" any of the computer printed items on the worksheet - just cross these out. The old value helps the coding staff make correct changes to claimed information. If a crossed out printed item is in fact OK, write "OK" next to it and the coding staff will not change it.

Avoid fine point pens as the width of the writing must be wide enough for filming. It is important that changes, comments, etc., stand out clearly for coding, microfilming, or photocopying. Any changes, corrections, or amendments made will be coded, keypunched, and updated in the computer data base by the records section in Helena.

Asterisks And Checkmarks. A system of asterisks and checkmarks will be used to flag changes made on the examination worksheet that are to be entered into the data base. All changes must be flagged.

## FIGURE IV-1

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D.N.R.C.

41B -W-194143-00

## EXAMINATION WORKSHEET

\*\*\*\*\*

coding

WATER RIGHT NUMBER 41B -W-194143-00

\_\_\_\_| OWNERS: CHRISTIANSEN TED A  
 1850 E BENCH RD  
 DILLON MT 59725

CHRISTIANSEN MARGERY I  
 1850 E BENCH RD  
 DILLON MT 59725

\_\_\_\_ok \_\_\_\_amended \_\_\_\_rule 2.II. \_\_\_\_DNRC error \_\_\_\_issue  
 comments: \_\_\_\_\_

\_\_\_\_| PURPOSE: IRRIGATION  
 IRRIGATION TYPE: SPRINKLER

\_\_\_\_ok \_\_\_\_amended \_\_\_\_rule 2.I. \_\_\_\_DNRC error \_\_\_\_issue  
 comments: \_\_\_\_\_

\_\_\_\_| SOURCE: SPRING CREEK

\_\_\_\_ok \_\_\_\_amended \_\_\_\_rule 2.VI. \_\_\_\_DNRC error \_\_\_\_issue  
 data source: USGS topo map \_\_\_\_\_  
 WR survey \_\_\_\_\_ others \_\_\_\_\_  
 comments: \_\_\_\_\_

\_\_\_\_| SOURCE TYPE: SURFACE

\_\_\_\_ok \_\_\_\_not ok comments: \_\_\_\_\_

\_\_\_\_| POINTS OF DIVERSION AND MEANS OF DIVERSION:

	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY	MEANS	TRIB
DV01				NESE	23	06S	07W	MA	PM	

\_\_\_\_ok \_\_\_\_amended \_\_\_\_rule 2.III. \_\_\_\_DNRC error \_\_\_\_issue  
 \_\_\_\_additional PODS: see attached code sheets/amendment form  
 named ditch: \_\_\_\_yes (add CX remarks) \_\_\_\_no  
 comments: \_\_\_\_\_

\_\_\_\_| basin code: 41B

\_\_\_\_ok \_\_\_\_not ok interbasin transfer with basin \_\_\_\_\_  
 comments: \_\_\_\_\_

\_\_\_\_| RESERVOIR:

	ON/OFF/R	QTR	SEC	SEC	TWP	RGE	CNTY
RS01	ONSTREAM		NESE	23	06S	07W	MA

RESERVOIR/LAKE NAME: \_\_\_\_\_

RESERVOIR DATA: CAPACITY \_\_\_\_\_ DAM HT \_\_\_\_\_ SURFACE AREA \_\_\_\_\_

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## DNRC EXAMINATION WORKSHEET CONT.

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☐ ok ☐ amended ☐ rule 2.V. ☐ DNRC error ☐ issue  
 comments: \_\_\_\_\_

\_\_\_\_| PRIORITY DATE: APR 15, 1872

☐ ok ☐ amended ☐ rule 2.VIII. ☐ DNRC error ☐ issue  
 comments: \_\_\_\_\_

\_\_\_\_| TYPE OF RIGHT: DECREEED

☐ ok ☐ amended ☐ rule 2.VIII. ☐ DNRC error ☐ issue  
 comments: \_\_\_\_\_

\_\_\_\_| FLOW RATE: 0.00

☐ ok ☐ amended ☐ rule 2.IX. ☐ DNRC error ☐ issue  
☐ apply standard  
 comments: \_\_\_\_\_

\_\_\_\_| VOLUME: 640.00 acre-feet per year  
 (comparison stat: 4.00 AF/AC feasible vol. = 0.00 AF)

☐ ok ☐ amended ☐ rule 2.X. ☐ DNRC error ☐ issue  
 CLIMATIC AREA: 4  
☐ ok ☐ not ok  
 comments: \_\_\_\_\_

\_\_\_\_| PERIOD OF USE: APR 15 TO NOV 4 (computer array: 000499999910)

☐ ok ☐ amended ☐ rule 2.XI. ☐ DNRC error ☐ issue  
 comments: \_\_\_\_\_

\_\_\_\_| MAXIMUM ACRES: 160.00

☐ ok ☐ amended ☐ rule 2.VII. ☐ DNRC error ☐ issue  
 comments: \_\_\_\_\_

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## DNRC EXAMINATION WORKSHEET CONT.

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PLACE OF USE FOR IRRIGATION:

IR01

(claimant contact points: 176.8 - 143.2 percentage = 10.5)

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	40.00				E2NE	23	06S	07W	MA
002	120.00				NW	24	06S	07W	MA
TOTAL	160.00								

☐ ok    ☐ amended    ☐ rule 2.VII.    ☐ DNRC error    ☐ issue  
☐ additional pou parcels: see attached code sheets/amendment form  
 comments: \_\_\_\_\_

data source # 1: \_\_\_\_\_ date: \_\_\_\_\_

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	_____				E2NE	23	06S	07W	MA
002	_____				NW	24	06S	07W	MA
Total	_____								

☐ See attached examination worksheet p.o.u. addendum  
 comments: \_\_\_\_\_

data source # 2: \_\_\_\_\_ date: \_\_\_\_\_

	ACRES	LOT	BLK	QTR	SEC	SEC	TWP	RGE	CNTY
001	_____				E2NE	23	06S	07W	MA
002	_____				NW	24	06S	07W	MA
Total	_____								

☐ See attached examination worksheet p.o.u. addendum  
 comments: \_\_\_\_\_

SUPPLEMENTAL: ☐ yes (add supplemental rights addendum)    ☐ no

MULTIPLE USE: ☐ yes (add MU remark)    ☐ no

EXISTING REMARKS IN DATABASE: ☐ ok    ☐ not ok

FR01 ALL /SEE DECREE

PE01 SEE DECREE

fee paid: \$0.00    ☐ ok    ☐ not ok  
 claim received: 4/08/82    ☐ ok    ☐ not ok



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## DNRC EXAMINATION WORKSHEET CONT.

41B -W-194143-00

questionnaires: type \_\_\_\_\_ date sent \_\_\_\_\_ completed \_\_yes\_\_no  
telephone contact: date \_\_\_\_\_ phone #: \_\_\_\_\_  
inter contact: date \_\_\_\_\_  
interview: date \_\_\_\_\_  
ownership check: date \_\_\_\_\_  
field investigation: date \_\_\_\_\_ approval: \_\_\_\_\_  
water court contact: date \_\_\_\_\_  
General Comments: \_\_\_\_\_

Examined by: \_\_\_\_\_ date \_\_\_\_\_  
Coding Sheets: \_\_\_RMRK \_\_\_RSRV \_\_\_POU \_\_\_DVRS \_\_\_OWNR \_\_\_AMEND \_\_\_SUPP

Coded by: \_\_\_\_\_ Date \_\_\_\_\_

Whenever an element is changed so that the decree abstract will differ from the claim form, amendment, or addendum, place an asterisk between the brackets and a checkmark in the left margin of the worksheet next to the heading for the element being changed. The asterisk will be added to the computer data base by the coders and the checkmark alerts them to a change in that particular element. The asterisk will appear on the decree abstract to indicate to the claimant that a change has been made.

Example:   ✓   |\*| PURPOSE: DOMESTIC IRRIGATION

Whenever a change is made to the worksheet that requires coding to add, amend or correct claimed data, use a checkmark to alert the coders. Place the checkmark in the left margin of the worksheet next to the item being changed.

Example:   ✓   CLIMATIC AREA: \_\_\_\_\_

Changes made by amendments do not need an asterisk because an amendment is claimed information, i.e., the amendment is the new claim. Changes to climatic area code, households, maximum reservoir capacity, or certain means of diversion codes (see "Claim Examination: Means of Diversion") do not require asterisks.

"KEEP". The KEEP flag is used with flow rate and volume values. It is a message to the computer to retain the attached value and to suppress any preprogrammed remarks, e.g., flow rate reduction remark. The KEEP flag is applied by writing "KEEP" on the examination worksheet next to the flow rate or volume figure. Procedures found in later sections will describe when KEEP flags should be used.

3. Documenting Examination. This worksheet will become part of the public record and subject to scrutiny by judges, water masters, claimants, objectors, and attorneys. The logic and reasoning for any change to a claimed element must be clearly documented on the worksheet.

An area is provided under each element on the worksheet for documenting the examination. The primary parts are as follows.

- ok: Check "ok" only if the examination finds an element appears correct as printed on the worksheet. An element is not "ok" for many reasons, such as data entry errors, clarification errors, claimant clerical errors, by being outside of the guidelines or having unresolved issues.
- amended: Check "amended" if the claimed information was amended by the claimant either unsolicited or through claimant contact.
- rule #.###.: Check "rule" if a change, e.g., clarification or application of a standard, is made under

the authority of the cited Supreme Court Water Right Claims Examination Rule. This includes changes made upon instructions from the claimant.

- DNRC error: Check "DNRC error" if a change is made because of a previous clarification, coding, or keypunching error.
- issue: Check "issue" if the claimed information has some problem, unresolved during examination, which will be reported to the water courts in an issue remark.
- comments: "Comments" are explanations of the reviewer's analysis of an element, such as the source of data used to make a change. Make them detailed and complete to be understandable to anyone reading the file. If the comments do not fit on the worksheet, add and refer to additional sheets. Do not write on the back of the worksheet. This line may also be used to document the remark codes of any remarks completed on code sheets for the particular element.

The claim file serves as the repository of all claimed information and other materials related to the department's examination. Add copies to the claim file of all written correspondence sent or received by the department pertaining to a claim (including unsolicited items). All correspondence received by the department must be stamped with the date received.

4. Examination Addendum. Additional information may be necessary to fully and accurately identify a claimed right. Code sheets are used to add information to a claim which could not be added directly to the worksheet itself. Code sheets will be used anytime a POU parcel, POD, owner, reservoir, or remark is included in addition to those found on the worksheet. Code sheets added during examination of a claim will become a permanent part of the claim file.

At the end of the worksheet are lines labeled:

Coding Sheets:   RMRK   RSRV   POU   DVRS   OWNR   AMEND   SUPP

If code sheets (POD, reservoir, POU, remark, owner) were added during examination, indicate the number of code sheets (not the number of records per code sheet) in the appropriate blank(s). This tells the coding staff how many code sheets should be accompanying the worksheet.

5. Identification Codes. Code letters and code numbers are used to enter data from a claim into the computer. In a few areas the identification codes appear on the worksheet. Knowing the identification codes (Exhibit IV-3) will help when checking for errors in areas where the codes are used.

6. Marking Original Claims. NO comments, changes, or corrections may be made to the original clarified claim, map, or documentation during the examination process. For potential courtroom purposes, it is important that the claim and attachments be the same as when submitted by the claimant.

7. Verification Abstracts. Worksheets may be found in the claim file which were used for documenting claim review prior to the development of the examination worksheet. The following are guidelines on whether or not these materials should be saved in the claim file and microfilmed.

- Verification abstracts which are not signed or dated and do not contain relevant claim review information should be discarded.
- Signed and dated verification abstracts which contain no relevant claim review information should be "Xed" with a highlighter, preferably in a color that does not block writing. Such abstracts will not be microfilmed but will be retained in the claim file for documentation.
- Verification abstracts which contain relevant claim review information, e.g., claimant contact notes, should be retained and sent in with the examination worksheets to be microfilmed.
- Code sheets completed during verification should be "Xed" with a highlighter, preferably in a color that does not block writing. Such code sheets will not be microfilmed but will be retained in the claim file for documentation. Exceptions are code sheets that can be used in the claim examination. These should not be "Xed" but should be sent in as part of the examination materials.

It is not necessary to transcribe verification information onto examination worksheets. Only information that requires coding, e.g., a changed POD legal, should be transcribed. When verification changes are used, they must meet the review criteria and requirements of the examination manual, meaning an amendment would be necessary for some situations. If the verification abstract contains claimant contact information or other relevant review data, refer to it on the examination worksheet.

By following the above procedures, some verification abstracts (including code sheets) will be saved, and others discarded. The majority of those saved will probably not be microfilmed but will remain in the claim file to document our past work efforts.

### C. CLARIFICATION

Clarification means the process by which certain specific elements of a water right are made more complete, clear, concise, and interpretable without changing the intent of the claimed information.

With so many thousands of claims being filed by claimants inexperienced in such matters, many may have been confused about how to complete the claim forms. This undoubtedly led to clerical errors and inconsistencies in the claims. Clarification is a tool for the department to use in editing out these errors in claims. The department is also allowed to perform other actions categorized under clarification which are intended to provide consistency of identification in the centralized record system.

Clarification involves checking claimed information and comparing it to other information in the claim file, other water rights claims filed by the same owner, or other data sources. Many clarification changes may be made without contacting or notifying the claimant. The claimant must be contacted, however, whenever a resolution is not clearly indicated in the claimed information or whenever the change is not clearly one authorized as clarification under the Supreme Court rules.

In addition, changes to claimed information cannot be made as clarification under the following circumstances.

- An adjustment by a claimant to a claim not presently being examined.
- An adjustment by a claimant based on information provided by a non-owner (e.g., tenant, ranch manager, Forest Service District employee)
- An adjustment to flow rate, volume, priority date, or acres.

Clarification of flow rate, volume, priority date, or acres can still occur but if any of these elements are changed to something different from that in the claim file, an amendment should be used. Other elements may be changed as clarification changes.

1. Authorized Clarification. The Supreme Court Water Right Claims Examination Rules (see Rule 6.II.) authorize the department to perform three classes of clarification.

Standardization And Consistency. The following clarification changes may be made without claimant contact.

- Owner Name and Address. The claimant's name and address can be changed to reflect current and consistent information.
- Purpose. The purpose of a water right can be changed to identify similar purposes consistently.

- Source. The claimed source name can be changed for consistency, to reflect the source name designated by the USGS, WRS, or colloquial names, in this order of preference.
- POD. The POD claimed legal land descriptions can be changed to achieve the nearest reasonable and concise legal land description or to identify identical PODs consistently.
- POU. The POU claimed legal land description can be changed to achieve the nearest reasonable and concise legal land description.
- Means of Diversion. The claimed means of diversion can be changed to identify similar or identical means of diversion consistently.
- Stock Drinking Direct. The claimed POU and POD legal land descriptions involving direct surface water stock use can be changed to be equivalent.

Clerical Errors. Claims with clerical errors may be edited by the department without claimant contact if the intent of the claimant is clear. The claim and attachments, or specifically related claims, must provide the correct data. Examples of clerical errors are:

- Legal land descriptions are reversed
- Priority date, period of use, source, POD, etc. are not on the claim form but are clearly stated in the documentation
- N, S, E, or W are not indicated in the legal land description for township or range
- Units for flow rate are not on the claim form but are clearly indicated in the documentation

Discrepancies In Claimed Data. The claimant must be contacted when claimed data has apparent discrepancies but neither the claimant's intent nor a correction are clear in the claim and attachments. Changes can be made to correct such discrepancies upon instruction from the claimant. Some examples of discrepancies are:

- Incorrect legal land descriptions were claimed for a POU or POD
- Units for flow rate or volume are not indicated in the claim
- Claimed flow rate or volume amounts are inconsistent with the claimed use or system

- Legal land descriptions on the claim form and map disagree
- Documentation submitted with the claim indicates several priority dates
- Priority date in the documentation does not match priority date on claim form

2. Making Clarification Changes. Changes to claimed information made as authorized clarifications (no change in claimant's intent) are made on the examination worksheet. Cross out the claimed data and write the clarified data next to it. Place an asterisk in the left margin of the worksheet next to the changed element. Extensive or complex clarifications of POU legal land descriptions can be made on the worksheet or on a POU code sheet.

Document the clarification change on the worksheet by checking the rule number in the line below the changed element. If more explanation is needed, use the comment line in the same area.

The claimant may need to be contacted for certain clarifications. Document the data supplied by the claimant and the specifics of the contact i.e., whom, when and how received, etc. See "Claimant Contact Techniques: Making And Processing Contact" for detailed procedures.

3. Clarification During Claims Collection. Most of the original claims submitted were reviewed to make them complete, clear, and interpretable for computerization. When the department changed an item on the claim form, the change was noted by placing an asterisk or "DNRC" in the left margin (outside the border) next to the item clarified. Both changes and asterisks were entered into the computer data base. These changes will be identified on the examination worksheet by a printed asterisk in the left margin next to the clarified element.

During claim examination, carefully check those items changed on the claim form and noted with an asterisk on the worksheet. Confirm the change was made correctly. If a clarification change was made but no asterisk was added, place an asterisk on the worksheet.

Determine whether the change was made in accordance with Supreme Court rules (Rule 6.II.). If so, check "rule" on the worksheet, and note it on the "comments" line under the clarified element, e.g., "Clarified on 3/4/88."

If past clarification was incorrect and the change cannot be considered a 'clarification' or 'rule' change, correct the examination worksheet to reflect the original claimed information. Check "DNRC error" on the worksheet and note the reason on the comments line. Cross out the computer generated asterisk and add a checkmark to the left hand margin of the worksheet next to the change. Follow standard examination procedures.

#### D. CODE SHEET INSTRUCTIONS

Code sheets are used to add data to the computer record of a claim. Code sheets are normally used anytime a POU, POD, owner, reservoir, or remark is added to a claim in addition to the information on the worksheet. The following sections discuss standards for filling out code sheets to maintain consistency of data entry into the computer.

Code sheet samples (POU, POD, owner, reservoir, remark) are in Exhibit IV-4.

1. Completing Code Sheets. Legibility is critical when completing code sheets. They should be completed using the standardized letter and numeral printing formats in Exhibit IV-5. Print clearly and darkly, using all capital letters. Bright colored pens, such as red, green or purple, are preferred as it is easier to read and increases the speed of data entry.

Across the top of each code sheet are seven blocked areas. Any time a code sheet is used, complete the seven blocked areas as follows.

<u>Title</u>	<u>Procedure</u>
ACTION	Three possibilities exist which are A (add), D (delete), C (change). Most actions during examination use "A" which tells the computer to add the record. When adding data to an existing record, use "C" which tells the computer to change the existing record, e.g., use "C" to add well data to an existing well record.
GEN CODE	Two possibilities exist, Y (yes) or N (no). Always use "Y" (tells the computer to print an abstract).
GEN	Complete this as "01" which tells computer the number of copies to generate.
BASIN	Use same basin code as found on claim. Left justify.
ID CODE	Use "W," "Z," "O," or "J" as per claim.
ID NUMBER	Use entire claim number (example: 000083).
EXT ID	Always use "00".

Complete the remaining areas of each code sheet as follows.



a. POD Code Sheet (Form WR12).

<u>Title</u>	<u>Procedure</u>
ID	Enter the number of the new diversion. (Example: If the worksheet shows two POD's and a third is being added, complete this area as "03.")
MEANS	Enter the means of diversion code.
LOT	If applicable, enter one lot number. Right justify, do not zero fill.
BLOCK	If applicable, enter one block number. Right justify, do not zero fill.
QUARTER SECTIONS	Q1 = 160 acre designation Q2 = 40 acre designation Q3 = 10 acre designation Q4 = Omit
SEC	Enter Section. Right justify and zero fill.
TWP	Enter township. Right justify and zero fill.
RGE	Enter range. Right justify and zero fill.
CNTY	Enter county code (e.g., Gallatin = GA)
SOURCE	Refer to "Source Name Coding Consistency" below. Enter "Y" at UT if source is an unnamed tributary. Enter "N" if it is not an unnamed tributary.

b. POU Code Sheet (Form 76-C-2).

<u>Title</u>	<u>Procedure</u>
PURP ID	Purpose ID. Enter the purpose code for the claim. Since only one purpose is allowed per claim, the purpose code will always be followed by "01". Example: IR01.
PRCL ID	Parcel ID: Enter the number of the new parcel. Example: If the worksheet shows six parcels and a seventh is to be added, complete this area as "007".
ACRES	Enter number of acres for added parcel. Example: 37.00.

For remainder of areas to be completed, refer to POD code sheet instructions.

c. Remark Code Sheet (Forms WR17-A and WR17-B).  
See the introduction to Chapter V, Standard Examination Remarks, for a discussion of these forms.

d. Owner Code Sheet (Form WR05). This code sheet is divided into two main parts. Use only the "Owner Record" area.

<u>Title</u>	<u>Procedure</u>
OWNR RELT	Owner Relation. Enter "M" for main or original owner. Enter "T" for transferred owner.
OWNR TYPE	Owner Type. Enter "C" for corporation. Enter "I" for individual.
OWNER NAME AND ADDRESS	Refer to "Owner Coding Consistency" below.
RELATED OWNER NAME	Omit.

e. Diversion, Well, Reservoir Code Sheet (Form WR06). This code sheet is divided into three parts. Only the "Reservoir Record" and "Well Record" areas will be used during examination.

<u>Title</u>	<u>Procedure</u>
	(For "Well Record")
ACTION	Enter "C" (changing Well Record by adding data).
DEPTH	Enter well depth in feet. Round to no decimal places. Right justify.
WTRLVL	Enter static water level in feet. Round to no decimal places. Right justify.
YIELD RATE	Enter pumping rate from the well test data in gpm. Round to no decimal places. Do not use claimed flow rate or means of diversion pump capacity. Right justify.
CSNGDIAM	Enter casing diameter in inches. Computer assumes two decimal places. (i.e., Enter 6 inches as "600"; enter 7.5 inches as "750").
PUMP SIZE	Omit.
RATE, et.seq.	Enter data from worksheet.

For remainder of areas to be completed, refer to POD code sheet instructions.

(For "Reservoir Record")

ID	Enter the number of the reservoir to be added. (Example: If worksheet lists one reservoir but two are involved with the claim, complete as "02".)
NEW CAPACITY	Enter maximum capacity in acre-feet.
DAM HT	Enter height of dam rounded to the nearest foot. Dam height is the vertical distance from the lowest point on the dam crest to the lowest point on the natural ground (including any stream channel) along the downstream toe of the dam.
ENLG	This block defines offstream/onstream. Enter "Y" for offstream reservoirs. Enter "N" for onstream reservoirs. Enter "R" to print only the lake or reservoir name, and suppress all other reservoir data on decree abstracts (used for reservoirs where storage is not part of the right and for natural lakes).
EXISTING CAPACITY	Omit.
SURFACE AREA	Enter surface area in acres.
RESERVOIR/LAKE NAME	Standardized name of reservoir or lake. If none leave blank.

For remainder of areas to be completed, refer to the POD code sheet instructions. When the claimant has control of the reservoir as part of the right ("Y" or "N" code), the legal land description should be the dam location. When control of the reservoir is not part of the right ("R" code), the legal land description should match the POD.

2. Source Name Coding Consistency. When standardizing source names on the worksheet or coding source names on a POD or reservoir code sheet, use the following format.

- The type of source, e.g., river, creek, coulee, etc., should be included as part of the name.
- Forks should follow the name of the stream, preceded by a comma (Bitterroot River, East Fork).
- Abbreviations should be used only when absolutely necessary to fit a name into the field (33 characters). If abbreviations are used, abbreviate

the type of source rather than the source name.  
Refer to Exhibit III-1 for acceptable abbreviations.

3. Owner Name/Address Coding Consistency. Instructions and examples for coding additional owner names and addresses is presented in the "Owner Name/Address Standards" manual (Exhibit IV-6).

4. Remarks.

a. Remark Code Sheet Standards. It is important that remark code sheets be completed properly so that remarks are entered into the data base and appear in the decrees properly. Use the following guidelines.

- Complete in ink only. The color of ink used should be one that contrasts well with the code sheet, such as red, green or purple.
- Print legibly. Use all capital letters.
- When a water right number (claim, certificate, permit, or acknowledgement) is used in a remark, only the following formats are acceptable:

W000000-00  
C000000-00  
P000000-00  
K000000-00

The letter, six digit number (including zeros), and extended ID must be completed.

- Only the following formats are acceptable when a flow rate, volume or acre figure is used in the text of a remark:

1	OR
26	OR
347	OR
3,285	OR
84,853	OR
2.00	OR
24.50	OR
128.00	OR
1,587.00	OR
24,345.50	

- The proper format for dates is MM/DD/YY.
- The following abbreviations are the acceptable formats when writing a legal land description in the text of a remark:

SEC = section  
TWP = township  
RGE = range  
NO. = number

- The following abbreviations are not acceptable:

POU: write it out "PLACE OF USE"  
POD: write it out "POINT OF DIVERSION"  
County Name: write it out (except for subdivision  
remark)

- When a legal land description is used in a remark, only use commas to separate successive ~~xxx~~ descriptions. The following is the correct format.

Example: RN01THE DAM EXTENDS INTO THE NWNWNE, NENENW SEC 03  
TWP 05N RGE 15E SWEET GRASS COUNTY.

- For those remarks followed by a list of water right numbers, such as the Decree Exceeded remark (D5), the amount of water right numbers that can be coded is unlimited.
- Leave no space between remark code and beginning of text. The text must begin in the first box following the remark code (i.e., CL01THE...).
- For each remark ID (e.g., CL01) three lines of text are possible before needing a second remark ID (e.g., CL02). Do not split words or numbers; if a word or number will not fit entirely at the end of a line, place it entirely on the next line.

b. Coding Remarks. This section discusses procedures for coding remarks so that information is properly identified when the summary report is prepared for the water court.

The identification of remarks will be by means of a remark code, e.g., "CL01." The code has two parts: the remark code - "CL"; and the remark number - "01."

- The remark code locates the remark in the appropriate field on the abstract or report. For example, VM remarks will all be printed in the volume area of the abstract or report.
- The remark number locates the remark on either the decree abstract or the department's examination report. It also orders the printing of remarks, i.e., 51 will be printed above 53, etc.

When more than one remark is needed for a particular remark code (e.g. "PL"), use the following procedures to space the remarks.

- Remarks numbered in sequence (PL01, PL02) will be printed together as one thought or paragraph.
- If each remark represents an individual thought, skip a number between remark codes (PL01, PL03) so a space will be printed between the remarks.

Decree Abstract Remarks. The decree abstract will contain the claimed information plus remarks authorized by the Supreme Court rules and the water court.

The Supreme Court rules identify specific areas to be remarked during the department's examination of each claim. These remarks explain unique aspects and features of a right, or limit and define a right.

Example: MU01THE WATER RIGHTS LISTED FOLLOWING THIS...

In addition, a reviewer may find that remarks are needed to retain claimed information pertinent to a specific element which cannot be stored in that particular computer record. This might include unique aspects or features, such as an unusual means of diversion (DM) or a previously decreed alternating period of use (PE).

Example: FR01CASE NO. 1492, RAVALLI COUNTY, DECREES THE ENTIRE FLOW OF SPASOFF SPRING FOR DOMESTIC USE.

For remarks to appear on the decree abstract, code with a remark number from "01" to "50," e.g., CL01 to CL50.

Examination Report Remarks. The department has been authorized to report pertinent facts, data, and issues concerning each claim in an examination report. This report will contain all remarks providing information, or identifying factual and legal issues for consideration by the water court.

Facts, data and issue type remarks will be coded with a remark number from "51" to "99," e.g., CL51 to CL99.

Example: VM51THE CLAIMED VOLUME APPEARS TO BE EXCESSIVE FOR THE CLAIMED PURPOSE. AVAILABLE DATA SUGGESTS THE ACTUAL VOLUME IS 1.20 ACRE-FEET PER YEAR.

#### c. Adding Or Changing Remarks.

Adding A Remark. Remark code sheets are used to add statements explaining a particular situation or issue. The "comments" line under the pertinent element may be used to document remark codes for those remarks completed on code sheets.

Changing A Remark. An existing remark on the worksheet can be deleted by drawing a line through the entire remark code, number, and text. A portion of an existing remark on the worksheet can be

deleted by drawing a line through the unwanted part of the code, code number, or text. Material can also be added directly to an existing remark on the worksheet.

Questionable Remarks. When in doubt about adding an examination remark or deleting an existing remark, check with the water resources specialist. If still in doubt refer claim to the program manager.

d. "Clarification" Remarks. During claims collection and prior to initial entry into the computer, a "clarification" process was used to make the original claim forms complete, clear, and interpretable. Remarks were added during this process by the regional office staff to make the claimed information clear and understandable and for noting issues. Such remarks will appear on the examination worksheet under "Existing Remarks in Database".

Review and evaluate all remarks added during the initial claim clarification process. It may be necessary to standardize or delete these remarks. If a "clarification" remark is not authorized by the Supreme Court rules, it must not appear on the decree abstract. If not suitable for the decree abstract, but useful for the department's report, change the remark code accordingly.

e. Computer Generated Remarks. There are two different types of computer generated remarks:

Program Generated Remarks. These are remarks added to the review abstract and decree programs but are not stored in the computer record. These remarks will print on a review abstract as 41 and 91 remarks.

Example: FR41NO FLOW RATE HAS BEEN DECREED FOR THIS USE FROM THIS ONSTREAM RESERVOIR.

Computer Stored Remarks. These remarks are added to the water rights data base through the standards program when changes are made to the flow rate or volume. The standards program will generate the remark.

Example: VM51THE CLAIMED VOLUME EXCEED THE MAXIMUM FEASIBLE VOLUME. BASED ON THE FLOW RATE AND PERIOD OF USE, THE MAXIMUM VOLUME POSSIBLE IS 3.20 ACRE-FEET PER YEAR.

Keep in mind, if a 41 and 91 remark is printed on a review abstract, this remark will not appear in the computer. It is not necessary to code these or any other computer generated remarks. Further, only under certain conditions can computer generated remarks be suppressed.

## E. CLAIMANT CONTACT TECHNIQUES

The department will use claimant contact as the principal means of gathering facts and data pertaining to issues on claims unresolved by the routine examination procedures outlined in this manual. Contact also provides the opportunity for claimants to instruct the department to make changes to their claims that clarify their intent.

Generally a claimant will be contacted once after all claims of the ownership have been reviewed and the questions needing attention have been identified. The consolidation of issues leads to efficiency and effective results with minimum intrusion upon the claimant. Be well organized and thorough, making sure that all needed information is obtained. Have issues and requests clearly listed before contacting the claimant.

1. Types Of Contact. Claimant contact may be by telephone interview, personal interview, or written correspondence. Several alternatives may have to be used to completely examine a claim. The sequence in which the alternatives are used will be at the reviewer's discretion. The type of contact should be the least intrusive and most likely to resolve the discrepancies that caused the contact. Claimant contact is time consuming. It should be made as efficient as possible without sacrificing adequacy.

a. Telephone Interviews. Telephone contact is the preferred form of initial contact with claimants. Use telephone contact for resolving simple problems, soliciting missing information, and setting up interviews. Put the current phone number in the place provided on the examination worksheet.

b. Personal Interviews. Interviews should be cordial, informal, and not antagonistic. The more comfortable the claimant is, the more information will be gathered. Specific appointments should be made for interviews.

Regional Office Interviews. This is the preferred location for in-person interviews as all required materials (aerials, topographic maps, etc.) are available.

Out Of Town Interviews. Many regional offices are located long distances from the areas they are examining. Appointments may be made to meet claimants somewhere in the basin when necessary. A centrally located point such as a county courthouse, SCS office, or library are possibilities. To meet the claimant at their home is also acceptable.

Be sure that enough appointments are set to warrant the trip. Seek approval for all travel from the regional office manager.

c. Letter Contact. Contact letters may be sent in many situations. For example, a letter can be sent when telephone contact has failed, to document telephone contact, or to supplement



a claimant interview when the information needed is complex. Retain copies of all letters in the pertinent claim files to document the correspondence.

There are several types of letters that can be sent depending on the circumstances.

- Questionnaire Letter. Use this letter when detailed information is needed such as on pumps, reservoirs, power generation, mining, etc. The letter generally is comprised of two parts: (1) cover letter (see Exhibit IV-8) and (2) questionnaire.
- General Contact Letter. Use this letter when an appointment needs to be made for an in-person interview. Generally, it is used when a claimant can't be reached by telephone. This letter is designed to be quick and efficient. (Exhibit IV-9).
- Personalized Letters. Use customized letters to address specific situations that require individual attention. Some typical uses for personalized letters are
  - addressing unresolved issues that are intricate and require explanation;
  - confirmation of items discussed during telephone contact or personal interview;
  - confirming or scheduling the date, time, and location of an interview or field investigation.
- Final Letter. Use this letter when the initial contact soliciting information is not answered (Exhibit IV-10).

Letters should be clear and concise, yet sufficiently detailed to inform the claimant of what is needed. When pertinent, copies of the claim, map, aerials, and other helpful materials should be included. Including a synopsis of the unresolved issues in the letter is advised as it allows the claimant to gather and prepare information.

## 2. Making And Processing Contact.

a. Preparation. As a claim is reviewed, it is suggested that questions and concerns regarding the claim be listed in the general comments area of the worksheet or on an Interview Report Form, shown as Figure IV-2. This suggestion is useful for several reasons. First, it documents the concerns the reviewer has following the initial review of the claim. Second, it will help keep the contact with the claimant quick, efficient, accurate, and complete. Third, the list of concerns will be invaluable to staff helping the claimant if the reviewer is absent when the claimant visits the office.

FIGURE IV-2

DNRC INTERVIEW REPORT FORM

CLAIM NO: \_\_\_\_\_

PERSON INTERVIEWED: \_\_\_\_\_

RELATIONSHIP: CLAIMANT \_\_\_\_\_ OTHER \_\_\_\_\_

INTERVIEW METHOD: PHONE \_\_\_\_\_ IN PERSON \_\_\_\_\_ LOCATION \_\_\_\_\_

TOPICS DISCUSSED AND FACTS IDENTIFIED: \_\_\_\_\_

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INTERVIEWED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

An approach that favors efficiency is to set up an interview with the claimant as soon as questions and concerns are encountered which require contact. Then use the intervening time to complete the preliminary review of ownership. For every ownership the need for contact should be assessed once all elements of all claims of an ownership have been examined. Prior to contact, it may be helpful to research all water rights of the claimant (including permits and certificates) for an overview of the claimant's water use.

b. Who And When. Contact should be with the present owner of the right (claimant). If there is information in the claim file which indicates the current owner is represented by an attorney, verify with claimant whether contact should be made with attorney or claimant.

Normally a claimant will be contacted no more than two times concerning unresolved issues pertaining to their claim.

- Questionnaires. It is often required that questionnaires be sent to claimants to request additional information before a claim can be examined. This is a preliminary inquiry, meaning claimants may be contacted two more times regarding unresolved issues pertaining to their claim.
- First Contact. The first contact should be by telephone if possible as this is faster than composing and sending a letter (Exhibit IV-9). First contact may be to resolve an issue, set up an interview, or request some action by the claimant. If an interview will be conducted, set up an appointment at the earliest convenience, preferably within 30 days. If the claimant is asked to take some action or provide information, request that it be within 30 days (or some reasonable time frame).
- Second Contact. If no response is received from the first contact within the set time frame, make a second contact, by letter, (Exhibit IV-10), allowing another 30 days to respond.

It is recommended that the time frame from first contact to close of second letter period be limited to a total of 60 days. After the full time frame expires (60 days total), process the claim through alternative procedures such as field investigation or remarking issues. If the claimant responds anytime prior to completing the basin, the information should be used.

Always complete the "contact" area of the examination worksheet. Note the type of contact, date, and location of the interview findings. It is important the "first contact" and "second contact" initiating action be documented. There may be unanswered or intermediate telephone contacts which do not require documenting.

Split Ownerships. Many claims have been subdivided or otherwise split since the filing period. When contact is necessary

to clarify the intent of the claimant, see "Amended Claims: Who May Amend" for general procedures involving claims with multiple owners.

c. Written Correspondence. All correspondence must include the date, claim numbers, names of addressee and signatory.

Send contact letters to all owners having different addresses. In this situation, the letterhead should list one claimant with all other owners listed at the bottom of the letter.

If the claimant requests that someone else be contacted, e.g., an attorney or the person who completed the claim form, then direct all future contact to that party with copies going to the claimant. Document the request.

Send all contact letters via first class mail on regional office stationery. Place a copy of any contact letter in each pertinent claim file for documentation.

Returned Contact Letters. Contact letters returned from the post office with no forwarding address should be researched. There are several methods of obtaining correct addresses, such as checking telephone directories or regional office records for varying addresses on different filing. However, county courthouse research is the most effective way to determine a correct address. The county assessor's office usually has the most current ownership and address information.

d. Documenting Contact. When a claimant is contacted (telephone, regional office, out of town), document the contact in the general comments area of the worksheet or on an Interview Report Form (Figure IV-2). If more room is needed to document the findings, add and refer to additional sheets. Don't under document. Make the interview findings detailed and complete so that they are understandable to anyone reading the file.

- If an interview is refused, note this in the comments area of the worksheet. Alternative examination procedures such as a field investigation or remarks need to be pursued.
- If the claimant fails to appear for an interview, attempt to reschedule.

Prior to the interview, complete the pertinent portions of the Interview Report Form. During or directly after the interview, complete the remainder of the form. The form must be placed in each pertinent claim file and will become a permanent part of the file.

The procedure discussed above is the preferred method for documenting interviews. For simple cases, the interview may be documented under "General Comments" on the worksheet. All documentation should include: (1) persons contacted; (2) date; (3) means of contact; (4) topics discussed; (5) facts and data identified; and (6) claimant instructions or action to be taken.

In cases where the claimant is expected to take some action, e.g., submit further documentation, a letter confirming the conversation may be sent as a reminder. This also insures that the reviewer and the claimant are on the same wave length. Copies of all correspondence must become part of the claim file.

e. Docket System. Claims which have unresolved issues and are waiting for claimants to respond should be maintained in a separate file which may be in alphabetical order by claimant's name. It is suggested that one general file be maintained for all claims in the regional office awaiting response. By having one common file, other staff will be able to locate a claim file easily if the original reviewer is out of the office.

A docket system is required so that the final contact letter is sent in a timely fashion and as a check that 30 days have elapsed prior to finalizing the examination of the claim. It is suggested that either one office log or individual reviewer logs be kept of due dates and claimants' names. An alternative to a log would be marking the first file folder of a group of claims in an ownership with the type and date of contact. Review the log or claim files regularly, at least every two weeks.

3. Possible Outcomes Of Claimant Contact. Claimants may be contacted to gather facts and data pertaining to apparent discrepancies or issues unresolved by routine examination procedures. The contact can have one of several outcomes and actions to be taken by the department.

- Information discussed confirms the claimed data. Do not change the claimed data beyond routine clarification. Document the information supporting the claimed data.
- Data different from the claim form are substantiated which the claimant wishes to have replace the claimed data. The claim can be changed on instruction from the claimant, either written or oral, or by amendment. Document the information used to substantiate the new data.
  - (i) See "Special Provisions: Amended Claims" for requirements of when a claim must be amended.
  - (ii) See "Examination Materials And Procedures: Clarification" for requirements of when a claim can be changed by either written or oral instructions from the claimant.
- The issue or discrepancy is unresolved, either because no information to substantiate or correct the claimed data is found or because the claimant chooses to retain the claim as is. Do not change the claimed data beyond routine clarification. Add an issue remark to the department's examination report.

## F. INVESTIGATION TECHNIQUES

1. Ownership Check. This type of review can be a valuable resource as a backup or in conjunction with other claimant contact methods. An ownership check may be used in preparing for an interview, e.g., solving vague POU's or overlapping ownerships.

Use the county land ownership records at the courthouse. These are usually maintained by the county assessor or clerk and recorder. Some counties will research ownership via telephone requests. If travelling to a courthouse, wait until there are several ownerships needing to be researched.

Be aware that defining acreage through an ownership check may not be accurate. For example, a right developed on leased land may be used on the leased land and the claimant's property. Use claimant contact in conjunction with an ownership check that indicates a discrepancy with or in the claim.

An ownership form (Exhibit IV-11) may be used to pictorially illustrate and document the ownership research. Complete the "ownership check" area of the examination worksheet.

2. Windshield Investigation. This type of field investigation is primarily designed to educate reviewers as to the physical layout of a basin and the general water use patterns. These investigations may be used as a basin tour soon after a basin is opened for examination.

Windshield investigations may be used to help clarify issues of a right without formal investigation, claimant contact, or travel on private property. For economy, wait until several claims need investigation before conducting a windshield investigation, or conduct it in conjunction with other travel.

Prepare for a windshield investigation as you would for an interview. Take pertinent materials with you. Do not travel on private roads or property. If claimed information is changed or confirmed by the windshield investigation, it is recommended that the investigation be documented.

All windshield investigations require the regional manager's authorization.

3. Field Investigation. Field investigations are intended to identify facts and data regarding the use of water related to a water right. Investigations must be accurate and completed in a timely manner. The investigation report must describe thoroughly and concisely all relevant observations and data.

a. Types Of Field Investigations.

Investigations During Basin Examination. The water court will issue an order applying to an entire basin or subbasin authorizing field investigations where the department or the water court finds an investigation necessary to achieve accuracy. Field investigations during claim examination cannot be conducted by the department unless an order has been issued by the water court giving blanket authorization to the department to conduct investigations in the basin being examined. If a field investigation is needed but an order granting blanket authorization has not been issued, contact the program manager to initiate the process of requesting an order.

Field investigations may be conducted only when routine examination procedures and claimant contact have not resolved discrepancies of substantial importance to the claimed water rights, or as ordered by the water court. If initiated by the department, the claimed water right must appear to be erroneous, exaggerated, or nonexistent (or data sources are not adequate to determine the existence or extent of the right). An example would be an irrigation claim where no irrigation is evident on the data sources and the claimant maintains that the place of use has evidence of an irrigation system. In addition, there must be a likelihood of resolving the discrepancies or obtaining helpful data as a result of the field investigation.

- All field investigations during claim examination must be approved by the regional manager. The authorization will be documented by the regional manager initialing the space provided on the examination worksheet.
- The regional manager will establish a method of assigning field investigations to the staff. Assignments will consider the person who examined the claim and the proximity or concentration of the claims.
- When a field investigation is approved, contact claimant to establish a date and time for the investigation.
- A completed Notice Of Intent To Conduct A Field Investigation (Figure IV-3) must be in the claim file to document proper notification.
  - i) If the claimant agrees to a field investigation and to waive the 20-day waiting period, the field investigation may be conducted at any time after the waiver is signed. The waiver may be signed at any location. The signed notice must be filed with the claim. In this circumstance, it is not necessary to send a copy of the notice to the water court.
  - ii) If the claimant cannot be contacted or does not agree to the field investigation, mail the notice to the claimant and the water court at least 20 days in

**FIGURE IV-3**  
**NOTICE OF INTENT TO CONDUCT A FIELD INVESTIGATION**

TO: Claimant

FROM: Department of Natural Resources and Conservation  
Water Resources Regional Office

This is to provide you with notice that the Department of Natural Resources and Conservation intends to conduct a field investigation of Water Right No(s). \_\_\_\_\_

on \_\_\_\_\_, 19\_\_ at \_\_\_\_\_ am/pm.

The basis for this investigation by the Department is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Department is authorized to conduct field investigations when routine examination procedures and claimant contact do not clarify discrepancies of substantial importance to the claimed water right. If you feel that a field investigation should not be conducted, you must file a written objection to the field investigation with the Montana Water Courts (P.O. Box 879, Bozeman, MT 59715) using the following procedures:

(A) A written objection must be filed by you with the Water Court and served upon the Department at least five days before the date scheduled for the field investigation.

(B) Your written objection must contain a statement of reasons explaining why the proposed field investigation is improper, unnecessary, or should otherwise not be conducted.

You are requested and encouraged to accompany the Department employee during the field investigation. You will be contacted prior to the date of the investigation to confirm the meeting location and time. If you have any questions, please feel free to contact the Department at (406) \_\_\_\_\_.

DONE this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Water Resources Specialist  
Water Rights Bureau  
P.O. Box \_\_\_\_\_  
\_\_\_\_\_, Montana \_\_\_\_\_

\* \* \* \* \*

I consent to waive the required 20-day waiting period between this notice and the date the field investigation can be conducted.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_



advance of the intended date of the investigation. The notice form should be sent to all claimants with different addresses.

The 20 day period may be shortened only by order of the water court, or by written waiver from the claimant. The 20-day waiver may only be signed by the claimant or their legal representative. The waiver may be signed in any location and at any time prior to the investigation.

If the 20-day notice period is waived, send a copy of the notice form to the water court after obtaining the claimant's signature.

- Keep copies of Notices, or a log, in the basin file to document the total number of field investigations conducted during examination of the basin.
- Confirm the date for the field investigation prior to going. If the claimant is hostile to the idea of the investigation, don't go. Pursue other examination procedures such as remarking the issues.
- The field investigation will be conducted with the claimant present if the claimant so desires. The claimant should be encouraged to attend. Conversely, the claimant may file an objection to the field investigation as outlined on the Notice Of Intent form.
- The field investigation form (Exhibit IV-12) should be used as a worksheet for taking notes. Following the field investigation, the field investigation form will be completed and added to the claim file.
- Formal reports (see below) will be prepared for field investigations requested by the water court or the department's legal staff.

Requests By The Water Court. A written request or order for a field investigation should be sent to the central office with a copy sent directly to the regional office. If the request does not indicate that it was also sent to the central office by the water court, mail a copy to the adjudication program manager the same day it is received in the regional office.

Review the field investigation request. The water court may indicate the parties to be contacted. The water court usually indicates the investigator and the elements to be investigated. The request or order often indicates a deadline for the report to be received by the water court. It may be assumed that permission to enter the property has been given to the court by the claimant or the claimant's representative. If there are any questions or uncertainties, discuss the request with the water master.

Prepare a formal report and send it to the adjudication program manager for review. When the report appears thorough and complete, the bureau chief will initial it, and it will be mailed to the water court. The report must be in Helena five working days before the water court deadline, or sooner, if possible. This will ensure time to meet the deadline if revisions are necessary.

If the water court deadline cannot be met, the investigator must notify the adjudication program manager at least five working days prior to the deadline. The program manager will request an extension from the water court.

b. Preliminary Work Prior To Investigation.

Prioritize Investigations. A log of all investigations will be maintained by the regional office staff. At any time the number of investigations requested, source of request, number completed, number pending, etc. should be known. Exhibit IV-13 is a suggested format.

Field investigations may be prioritized by deadlines, budget considerations, or degree of difficulty. An aid in prioritizing field investigations is to prepare a map of the basin using a county highway map. Identify the location of each investigation with a pin and attached owner label. Use one color pin for claims to be completed first and another color pin for claims to be done later. Other colors may signify extensions needed, investigations completed, etc. This map provides a visual concept of the field investigations for the basin. It shows area concentration, where investigations should first be conducted, where investigations have been conducted, etc.

In-Office Preparation. Review the file for all claimed and examined information. Carefully check the data to acquire a thorough knowledge of the claim.

Materials that may be gathered and analyzed include

- the claimant's claims, permits, changes, and certificates for the area involved
- aerial photographs used for the Water Resources Survey
- Water Resources Survey
- copies of the survey field forms
- new aerial photographs/orthophotoquads
- copy of overlay showing claimed and examined POU
- topographic maps

Pull the aerials, topographic maps and orthophotoquads of the area to be investigated. Review source name, POU, POD, topography, landmarks, ditches, highways, etc. Review priority date, acres irrigated, historical irrigation per Water Resources Survey, possible incremental development, etc. List pertinent questions.

Prepare field maps showing claimed data and examined data, noting areas of concern. These maps will be used to record investigated data. Mylar overlays, photocopies, or drawings directly on the resource materials have all been used. The best method is to record field observations on clear mylar overlays or photocopies to be retained as permanent field notes.

Items to be taken to the field might include

- county highway map, BLM map, Forest Service map, etc.
- copies of all pertinent water rights including claims, changes, permits, and certificates (it is advised not to take originals into the field)
- the Notice Of Intent To Conduct A Field Investigation
- the water court field investigation order (if applicable)
- copy of the examination worksheet
- field investigation report form(s): complete pertinent portions before leaving the office
- original aerial photograph and maps, with copies to draw on, other maps, and the mylar overlays
- calculator
- camera and extra film
- binoculars
- hand level or engineer's level
- survey rod
- measuring wheel
- tape measure and steel tapes
- writing pad with clipboard and spare pencils
- equipment for measuring flow rate
  - 5 gallon bucket
  - piece of garden hose
  - stop watch
  - flow meters
  - portable weir or flume
  - plastic dams
  - carpenter's level
- compass
- wading boots
- acreage grids
- tape recorder
- shovel
- fly rod

c. Field Procedures. On-site field investigations give the investigator an opportunity to observe the operation, condition, and physical layout of the system. Of primary importance is observing and describing the water right elements of major concern--especially those that are the basis for the investigation. Of secondary importance is observing and describing other elements that may be confusing or conflict with the claim. Time and size of the project may allow inspection of only the primary issues.

When the claimant is present for the investigation, review the entire claim file to confirm the department's interpretation is the same as the claimant's intentions. Discuss the areas of concern to be investigated. It is important that the claimant and the investigator have a mutual understanding and awareness of the problems.

Conduct the field investigation in a sequential manner. If possible, start at the POD. Ask pertinent questions regarding the POD, such as "When was the diversion structure installed?" Compare actual POD with aerial photograph for correct legals. Note the means of diversion and whether the structure is evident and operational. Take structure measurements that may be needed later. Photograph the POD and begin a log of each photograph taken.

Next, address the delivery system. What is its condition and operational status? Note the maintenance, type of vegetation growing along and in the ditch, and other water loss considerations. If water is not flowing, determine whether the ditch would convey water in the proper direction. It may be necessary to use a hand level. Observe the secondary delivery system (laterals from the main ditch). Discuss with the claimant the history of use of the ditches including those plowed under. Take ditch measurements and photographs of pertinent features along the conveyance system.

Continue the investigation by checking the POU, beginning with the first field served by the delivery system. Take at least one photo of each field. Note the slope, soils, topography, type of vegetation, crop, and other relevant conditions. Ask the history of irrigation for each field. Make note of all areas that may not be irrigated such as high spots, swampy areas, steep areas, buildings, roads, brush, natural channels, etc. Any doubt concerning all or a portion of the irrigation should be discussed with the claimant.

Map the POD, delivery system, and POU on the field maps. Map the acreage being irrigated this year excluding unirrigable areas. If the present system differs significantly from the original (historical) water right, obtain a history of the differences sufficient for mapping and for discussing in the written report. Indicate existing, former, and recently constructed ditches. Have the claimant check and confirm your observations or provide evidence to the contrary.

This same procedure should be used for reviewing all elements of the water right. Take careful notes, drawings, and photographs as the investigation progresses. Do not rely on memory. Remember that you may be called to testify about the investigation. The field investigation form (Exhibit IV-12) should be used to record your observations. It is designed so pertinent information is not forgotten or overlooked. In addition to the information requested on the field investigation form, the following questions may be pertinent to the investigation.

POD:

- When was the diversion structure constructed?
- Is this the original headgate?
- Has the point of diversion been changed?
- If so, when was it changed?
- If not in recent operation, when was it last used?

Storage:

- When was reservoir or pit originally constructed? What changes or modifications have been made to it?
- Has the reservoir or pit been enlarged?
- When was it enlarged?
- How many times a year does reservoir or pit fill?

Conveyance:

- Is this the original system?
- If not, when were changes made?
- What and where is the historical conveyance system?
- Are any of the old ditches evident?
- Explain any secondary conveyance systems?
- When were the secondary systems constructed?

POU (irrigation):

- Was all the land put under irrigation at the same time or was land developed over the years?
- If incremental development, when was each field or portion of each field first irrigated?
- Why hasn't irrigation taken place since date of last use?
- When will the place of use be irrigated again?

Flow Rate:

- Pump: Rated capacity (gpm, gph, cfs), horsepower, make and model, lift (feet).
- Well: Depth, static water table, drawdown, casing size.

TIPS

- Be prompt and courteous.
- Travel only on established roads.
- Leave gates as found unless the claimant states otherwise.
- Respect property.
- When setting the date of the investigation, tell those participating that pre-1973 water use will be discussed.
- Do not go to a claimed area without proper authorization.
- Discuss differences between claim and field observations with the claimant.
- Do not agree with the claimant about areas of the investigation if the final report may differ.
- Do not presume to know the effect of the investigation on the final outcome of the right.

d. Post-Field Investigation. As soon as possible after the field investigation complete the remainder of the Field

Investigation Form (Exhibit IV-12). For field investigations during claim examination, a formal report is not required. A completed Field Investigation Form along with pertinent maps and photographs will be added to the claim file. Field investigations requested by the water court require a formal report (see below).

(1) Maps and Overlays. Attach a white stick-on tag so that all writing is clearly contrasted. Labels are available from the Helena central office upon request. It's format is:

DNRC SUPPLEMENTAL DOCUMENT	
CLAIM #	_____
PREPARED BY	_____
DATE:	____/____/____
MAP/AERIAL:	_____

Carefully complete all maps with clear identification of concerned features. The identification of maps should include:

- figure number/title
- claim number/case number
- claimant's name
- aerial photograph number/date
- scale
- reference to overlay
- legend
- section, township, range, county
- north arrow
- section corners

The various maps submitted with the report might include general location map (Exhibit IV-14), general system map (Exhibit IV-15), and photograph orientation map (Exhibit IV-16). The general system map may consist of an aerial photograph and various overlays showing claimed and observed data.

(2) Photographs. Photographs add greatly to the usefulness of a field investigation. Anything that can be put in the photograph to give perspective is useful, e.g., vehicle next to reservoir, person standing next to headgate, etc. Mount photographs on 8½ x 11" paper for labeling under the photograph. See Exhibit IV-17. If possible, do not label photographs on the front as this may lessen their value as evidence. Identify important features in the "Subject" area of the label. To identify unclear features, use arrows with labeling in the margin or the "Subject" area. Place claim number and photo number on back of photograph for identification if they become detached.

A photograph location map showing the photo number, location, and direction should be included.

Photo negatives should be stored in a separate file in the regional office.

(3) Field Notes. Field notes will become part of the claim file for investigations during claim examination. This would include the Field Investigation Form, photo log, field maps, measurements, computations, etc.

When a formal report is submitted, retain the field notes with a copy of the formal report in a file at the regional office.

(4) Formal Reports. Formal reports will be prepared for field investigations requested by the water court or the department's legal staff. The report must address those items stated in an order or specifically requested. The remaining elements of the water right, if incorrect, confusing, or conflicting with the claim, should be discussed. If time or size of the project only allows inspection of primary items, the report should so indicate.

Formal reports should concisely state the facts found. Reports should be clear concerning observed facts versus facts learned from a party (hearsay). Facts learned secondhand should be reported with their source clearly noted. An analysis of the data can be made based on substantiated and documented facts. Avoid qualifying phrases, recommendations, or opinions.

When reporting on rights historically but not presently used, or possibly used to a much greater extent than the original appropriation, a chronology of relevant data should be discussed.

If flow rate or volume is observed to be significantly above the standard or appears excessive, the report should address as many factors affecting the water use requirements as possible. The resolution of the issue may hinge on the factors discussed in the report. For example, a discussion of various factors like soils and slope, custom in the locale, conveyance losses, reasonableness of design, maintenance of the facilities, demand of other appropriators on the source, quantity of return flow, etc., will be invaluable to those who must decide the flow or volume issue.

To help standardize reports, the organization shown in Figure IV-4 is recommended. Figure IV-4 describes the type of information to be included in a report. Exhibit IV-18 gives examples. By following this outline, complete and consistent reports should be achieved statewide.

The primary parts of the formal report (Figure IV-4) are:

- Heading
- Introduction
- Description of System
- Results of Investigation
- Summary

## FIGURE IV-4

### FIELD INVESTIGATION REPORT

TO: Requestor  
FROM: Investigator  
DATE: Of Report  
CLAIMS: Basin and Water Right Number, Purpose of Water Right,  
Owner

#### INTRODUCTION

The introduction should lay the groundwork by covering all preliminary information. Five areas that should be covered in the introduction are listed in the examples.

#### DESCRIPTION OF SYSTEM

This section should give a general description and location of the water system. Save details and specific measurements for later in the report. The description should include the general condition and status of the point of diversion, conveyance facility, and place of use. If all or part of the system is not presently in use, describing the condition and operational status is important.

#### RESULTS OF INVESTIGATION

This area should include by element the findings, evaluation, and analysis of all the data gathered. Each element unclear during the examination, or which the water court has asked be inspected, should definitely be discussed. In addition, other elements should be discussed if the on-site inspection and other data reveal that the information may be inaccurate or inconsistent.

The discussion regarding each element may vary depending on the particular data, and the individual's writing style. Give a chronology of the data collected outlining the history of an element.

#### SUMMARY

A synopsis of the investigation's major points should be presented. Discrepancies between claimed versus observed data should be specifically outlined in the summary. The summary can indicate a condensed analysis of the data and facts and whether more work, measurements, or further investigations are needed. The summary should be stated as a series of facts rather than opinions or recommendations.



Some suggested writing tips are:

- Use a narrative format, rather than an outline.
- Be concise.
- Be consistent in your use of terms such as measurements.
- Use active voice and strong verbs.
- Don't express opinions.
- PROOF your report.

(5) Remarking Results. Information identified during a field investigation which was not incorporated into a claim by amendment should be identified on the department's examination report. Add a remark under each appropriate element or a general information (GI) remark when addressing more than one element.

Examples: P225 PL51A FIELD INVESTIGATION CONDUCTED ON 03/12/86 FOUND 1600.00 ACRES PRESENTLY BEING IRRIGATED. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

P620 PU51THIS CLAIMED WATER RIGHT MAY BE QUESTIONABLE. A FIELD INVESTIGATION CONDUCTED 03/15/84 FOUND NO EVIDENCE OF RECENT MINING ACTIVITY. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

G30 GI51A FIELD INVESTIGATION CONDUCTED ON 04/15/87 FOUND INFORMATION DIFFERENT FROM THAT CLAIMED FOR PLACE OF USE, POINT OF DIVERSION, AND FLOW RATE. SEE CLAIM FILE FOR ADDITIONAL INFORMATION.

(Note: One or more elements can be coded.)

If a field investigation confirms an element where the manual would require a remark, then the remark would not be needed. Retain remarks for all data source issues identified during examination if unresolved by a field investigation. For instance, the aerial photograph, WRS, and field investigation identify 100 acres, but the claimant retains the 200 acres claimed, all three data sources should be remarked. If the aerial photograph, field investigation, and claim show 200 acres, but the WRS shows 100, just the WRS would be remarked.

## G. EXAMINATION OF FEDERAL AND STATE AGENCY CLAIMS

Approximately fifteen percent of the claims submitted belong to federal agencies. Approximately four percent belong to state agencies. Examine these claims using the standard procedures for the purpose claimed. This section supplies addresses of these agencies and identifies the peculiarities of some agency claims.

### 1. US Department Of The Interior.

a. Bureau Of Indian Affairs. Examine to the extent possible, then forward to the program manager. The program manager will advise the method for dealing further with these claims.

USDI Bureau of Indian Affairs  
Branch of Water Resources  
316 N. 26th Street  
Billings, MT 59101  
ATTN: Doug Oellermann  
657-6782

b. Bureau Of Land Management. The BLM claims were submitted on a computer tape, therefore no claim forms exist. They did not provide hard copy maps in most basins, but provided microfiche copies of 7.5 minute topographic maps and orthophotoquads. Each map has numerous developments on it labeled by a BLM project number which refers to the microfiche SB-BLM numerical listing. If a microfiche map is unreadable, a hard copy map may be requested from BLM.

It is suggested for BLM claims that a copy of a topographic map or aerial photograph be placed in each file showing the POD, conveyance facility, and POU. This allows anyone reviewing the microfilm record to better understand the water right. Place a label in the upper right hand corner to identify the claim number, preparer, date, and map or aerial used.

Specific questions on claims should be directed to the individual District or Resource Area Office.

Miles City District Office  
Garryowen Road  
P.O. Box 940  
Miles City, MT 59301-0940  
ATTN: Dex Hight  
Telephone: 232-4331

232-7000 (Area Managers, Powder River and Big Dry  
Resource Areas)

Area Manager  
South Dakota Resource Area  
310 Roundup St.  
Belle Fourche, SD 57717-1698  
Telephone: 892-2526

Area Manager  
Billings Resource Area  
810 East Main St.  
Billings, MT 59105-3395  
Telephone: 657-6262

Lewistown District Office  
Airport Road  
P.O. Box 1160  
Lewistown, MT 59457-1160  
ATTN: Joe Frazier or  
Lloyd Bantz (Area Manager, Judith Resource Area)  
Telephone: 538-7461

Area Manager  
or Dan Jimison  
Valley Resource Area  
Route #1-4775  
Glasgow, MT 59230-9796  
Telephone: 228-4316

Area Manager  
or Ken Concilya  
Havre Resource Area  
West Second St.  
Drawer 911  
Havre, MT 59501-0911  
Telephone: 265-5891

Area Manager  
or Clint Ulrich  
Phillips Resource Area  
501 South Second St. E.  
P.O. Box B  
Malta, MT 59538-0047  
Telephone: 654-1240

Area Manager  
or Chris Jauert  
Great Falls Resource Area  
812 14th St. North  
P.O. Box 2865  
Great Falls, MT 59403-2865  
Telephone: 727-0503

Butte District Office  
106 North Parkmont  
P.O. Box 3388  
Butte, MT 59702-3388  
Telephone: 494-5059  
ATTN: Mike Brown or Loretta Park  
Telephone: 494-5059

Area Manager  
Dillon Resource Area  
1005 Selway Drive  
Dillon, MT 59725  
Telephone: 683-2337

Area Manager  
Garnet Resource Area  
3255 Fort Missoula Road  
Missoula, MT 59801-7293  
Telephone: 329-3914

Questions concerning general policy should be directed to either Francis Rieman or Peter Bierbach at the State Office in Billings.

USDI Bureau of Land Management  
Montana State Office  
Resource Division  
Box 36800  
Billings, MT 59107  
ATTN: Francis Rieman or Peter Bierbach  
Telephone: 255-2934

c. Bureau Of Reclamation. These claims were submitted on regular claim forms.

USDI Bureau of Reclamation  
Montana Projects Office  
P.O. Box 30137  
Billings, MT 59107-0137  
ATTN: Dave Nelson - 657-6639  
Gordon Aycok - 657-6416

-OR-

USDI Bureau of Reclamation  
Regional Office  
P.O. Box 36900  
Billings, MT 59107-6900  
ATTN: Tim Grove - 657-6661

d. Fish And Wildlife Service. These claims were submitted on regular claim forms. Care should be taken to review these claims for implied claims as their main duty is fish and wildlife management with a minor livestock management duty.

U.S. Fish and Wildlife Service  
Water Rights Division  
P.O. Box 25486 (Mailstop: 60190)  
Denver Federal Center  
Denver, CO 80225  
Attn: Cheryl Williss  
(303) 236-5321

e. National Park Service. These claims were submitted on regular claim forms. The claims were completed by persons in the respective national parks. Examine to the extent possible, then forward to the program manager. The program manager will advise the method for dealing further with these claims.

National Park Service  
301 South Howes  
Federal Building  
Fort Collins, CO 80521  
Attn: Stan Ponce (Glacier National Park)  
Ken Czarnowski (Yellowstone National Park)  
(303) 221-5341

2. U.S. Department Of Agriculture - Forest Service. The Forest Service claims were submitted on a computer tape, therefore no claim forms exist. The Forest Service submitted hard copies of 1/2" to 1" per mile scale maps with many developments per map. If the hard copy maps are unclear or inadequate, ask the Forest Service for additional mapping. Blue line USGS maps are available and have been distributed to the regional offices for the majority of the pertinent forests.

For instream stock use POU should equal POD. Some forests defined the POD as the upstream end of the stockwater use and the POU as the downstream end; some did the reverse. Other forests picked one point along the stream as the POD and POU. Further variations exist. These definitions of POD and POU were also used on some recreation and wildlife claims. Claimant contact may be necessary to identify the complete POD and POU. Be aware of land ownership boundaries when expanding land descriptions for Forest Service PODs and POUs.

It is suggested for Forest Service claims that a copy of a topographic map or aerial photograph be placed in each file showing the POD, conveyance facility, and POU. Place a label in the upper right corner identifying the claim number, preparer, date, and map or aerial. This helps anyone reviewing the claim file understand the water right.

Specific questions on claims should be directed to the individual national forest offices.

Beaverhead National Forest  
610 N. Montana St.  
Dillon, MT 59725  
Attn: Pete Bengueyfield  
683-3904

Custer National Forest  
2602 First Ave. N.  
P.O. Box 2556  
Billings, MT 59103  
Attn: Lee McConnell  
657-6361

Bitterroot National Forest  
1801 N. 1st  
Hamilton, MT 59840  
Attn: Bob Hammer  
363-3131

Deerlodge National Forest  
Federal Bldg., P.O. Box 400  
Butte, MT 59703  
Attn: Tim Sullivan  
496-3404

Flathead National Forest  
P.O. Box 147  
Kalispell, MT 59901  
Attn: Phyllis Snow  
755-5401

Kootenai National Forest  
506 Hwy. 2 West  
Libby, MT 59923  
Attn: Steve Johnson  
293-6211

Gallatin National Forest  
P.O. Box 130, Federal Bldg.  
Bozeman, MT 59715  
Attn: Sherman Sollid  
Cheryl Taylor  
587-6715

Lewis & Clark Natl. Forest  
1101 15th St. N., Box 871  
Great Falls, MT 59403  
Attn: Val Hancock  
791-7740

Helena National Forest  
301 S. Park  
Federal Bldg., Drawer 10014  
Helena, MT 59026  
Attn: Bill Putnam  
449-5201

Lolo National Forest  
Bldg. 24, Fort Missoula  
Missoula, MT 59801  
Attn: Skip Rosquist  
329-3811

General policy questions should be directed to Ron Haag at the regional office. All contact on basins in decree should be directed to Gail Dahl or Jody Miller.

USDA Forest Service  
Northern Regional Office  
Federal Bldg., P.O. Box 7669  
Missoula, MT 59807  
Attn: Ron Haag - 329-3407  
Gail Dahl - 329-3062

Jody Miller  
Special Asst. US Attorney  
Office of General Counsel  
P.O. Box 7669  
Missoula, MT 59807

3. US Department Of Defense - Army Corps Of Engineers.  
Examine the claims to the extent possible, then forward to the program manager. The program manager will determine the method for dealing further with these claims.

US Army Corps of Engineers  
Seattle District  
Office of Counsel  
P.O. Box C 3755  
Seattle, WA 98124-2255  
Attn: Siri Nelson  
(206) 764-3730

US Army Corps of Engineers  
Omaha District  
Office of Counsel  
6014 U.S. Post Office &  
Courthouse  
Omaha, NE 68102  
Attn: John Scalzo  
(402) 221-4055

4. Other Federal Agencies. Most of the other federal agency claims are domestic or institutional water supplies for facilities or stations. If the reviewer is unsure or has questions concerning these claims, contact the program manager.

5. State Agencies. Specific questions on claims submitted by the agencies should be directed to the individuals listed below.

Department of Natural Resources and Conservation

Anne Yates  
1520 East 6th Ave.  
Helena, MT 59620  
444-6660  
(legal questions)

Ron Roman  
1520 East 6th Ave.  
Helena, MT 59620  
444-6658  
(factual questions)

Department of Fish, Wildlife and Parks

Bob Lane  
1420 East 6th Ave.  
Helena, MT 59620  
444-4594  
(legal questions)

Fred Nelson  
1400 S. 19th  
Bozeman, MT 59715  
994-6937  
(factual questions)

Department of State Lands

Tom Hughes  
1625 11th Ave.  
Helena, MT 59620  
444-2074

Department of Transportation

Jim Beck  
2701 Prospect Ave.  
Helena, MT 59620  
444-6090